IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 4TH OCTOBER 2007 / 12TH ASWINA 1929

Bail Appl..No. 5990 of 2007()

[CRIME NO.616/2007 OF KAYAMKULAM POLICE STATION]

: PETITIONER/9TH ACCUSED

E.SHAJI,
KOPPARA PADEETTATHIL, PERINGALA,
KAYAMKULAM.

BY ADV. SRI.GEORGE VARGHESE(PERUMPALLIKUTTIYIL)
SRI.A.R.DILEEP
SMT.KAVITHA GANGADHARAN

RESPONDENTS: STATE AND COMPLAINANT

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1. STATE OF KERALA REPRESENTED BY
THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA.

2. SUB INSPECTOR OF POLICE,
KAYAMKULAM POLICE STATION.

BY PUBLIC PROSECUTOR SRI.S.U.NAZER

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 04/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

B.A.No.5990 of 2007

Dated this the 4th day of October 2007

O R D E R

Application for anticipatory bail. The petitioner is the tenth accused. He faces allegations in a crime registered for offence punishable inter alia under Sections 308 and 153A I.P.C. The alleged occurrence took place on 28/8/2007. Five accused persons are named in the F.I.R. They, along with eight others (not named), have allegedly committed the offences. The petitioner is not named in the F.I.R. Accused 1 to 7 have already been arrested and were enlarged on bail, it is submitted. A co-accused, the 8th accused, similar to the petitioner herein, had come before this court seeking anticipatory bail. The said application was rejected as per order dated 19/9/2007 in B.A.No.5645/2007. I have adverted to facts in detail in that order. It is not necessary to advert to facts in detail in this order. This order must be read in continuation of the said earlier order. The allegations raised against the petitioner is serious.

2. The learned Public Prosecutor opposes the prayer for anticipatory bail. The learned counsel for the petitioner submits that the petitioner having not been named in the F.I.R, it can

reasonably be assumed that the petitioner was not present along with the miscreants. The petitioner and the de facto complainant are friends and belong to the same area and therefore, if the petitioner were present, the de facto complainant must have seen the petitioner and his name must have shown in the F.I.R. No specific overt act is alleged against the petitioner, it is contended.

3. The case diary has been perused by me. Having considered all the relevant inputs, I am satisfied that there are no circumstances justifying the invocation of the extraordinary equitable discretion under Section 438 Cr.P.C. The petitioner, I am satisfied, must resort to the ordinary and normal course of appearing before the investigating officer or the learned Magistrate having jurisdiction and then seek regular bail.

4. In the result, this petition is dismissed. Needless to say, if the petitioner surrenders before the investigating officer or the learned Magistrate and applies for bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits, in accordance with law and expeditiously.

(R.BASANT, JUDGE)

jsr // True Copy// PA to Judge

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007